

PROVIDING THAT THE UNITED STATES HOLD IN TRUST FOR THE PUEBLOS OF ZIA AND JEMEZ A PART OF THE OJO DEL ESPIRITU SANTO GRANT AND A SMALL AREA OF PUBLIC DOMAIN ADJACENT THERETO

JUNE 7, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ENGLE, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 5712]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 5712) to provide that the United States hold in trust for the pueblos of Zia and Jemez a part of the Ojo del Espiritu Santo grant and a small area of public domain adjacent thereto, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment is as follows:

On page 2, line 17, strike the figure "16", and insert in lieu thereof the figure "5.25".

On page 2, line 20, strike the figure "64", and insert in lieu thereof the figure "74.75".

On page 4, line 4, strike the figure "34.33" and insert in lieu thereof the figure "44.13".

EXPLANATION OF THE BILL

The purpose of H. R. 5712, as amended, introduced by Congressman Dempsey, is to provide that the United States hold in trust for the pueblos of Zia and Jemez a part of the Ojo del Espiritu Santo grant and a small area of public domain adjacent thereto, subject to valid existing rights.

Two classes of land in New Mexico are involved in H. R. 5712, as amended: (1) Approximately 75,651 acres of the original Ojo del Espiritu grant and (2) approximately 1,917 acres of public domain. In 1953 the total Jemez and Zia population was 1,049 and 299 persons, respectively.

Section 1 of the bill provides that approximately 41,216 acres are held in trust for the pueblo of Zia, and section 2 provides that approximately 36,352 acres are held in trust for the pueblo of Jemez.

The Federal Government purchased the original Ojo del Espiritu Santo grant of 113,141 acres for \$282,852.87 (average cost per acre, \$2.50) under authority of the National Recovery Act of June 16, 1933 (48 Stat. 200) as a part of the submarginal land acquisition program. The value of the 75,651 acres proposed for transfer without cost to the Zia and Jemez Pueblos figured at the average rate per acre of \$2.50 is \$189,128. Executive Order No. 7792 dated January 18, 1938, transferred jurisdiction of the Ojo del Espiritu Santo grant from the Secretary of Agriculture to the Secretary of the Interior for administration by the Commissioner of Indian Affairs for the benefit of the Indians in the area. At that time the pueblos of Zia and Jemez were each granted grazing permits for 200 cattle unit yearlong. Subsequently in 1941, the Laguna Pueblo's grazing permit was transferred to the Antonio Sedillo grant, and the area formerly used by the Laguna Indians on the Espiritu Santo grant was made available to the non-Indians in that locality.

During 1941 the Espiritu Santo grant was transferred back to the Secretary of Agriculture with the requirement that grazing facilities of the grant be made to Pueblo Indians to the extent of 400 cattle units yearlong. The Department of Agriculture has continued to administer these lands to the present time, but now desires to dispose of the lands acquired under the submarginal land program to appropriate Federal and State agencies, and through sales to private individuals. Presently the Zia and Jemez have permits to graze livestock in the amount of 200 cattle units on a yearlong basis for each pueblo.

By including 1,917 acres of public domain in the bill, irregularities in the exterior boundaries will be corrected and, it is believed, administration will be simplified. This land is at the top of Nacimiento Mountain, is rough and rugged, and has little commercial value. Merchantable timber has already been marketed. Excluded from the bill are tracts of 640 acres used by the United States as an administrative site, and 163.76 acres of privately owned land.

The carrying capacity of the entire Espiritu grant, 113,141 acres, during the 18-year period 1936-53 was 843 cattle yearlong and ranged from 1,125 in 1949 to 350 in 1950. The best range information available indicates that the 75,651 acres of Espiritu Santo land involved in this bill has an average carrying capacity of no more than 400 cattle yearlong. This is the figure assigned to the Indians over the past 18 years.

At the time these lands were purchased by the United States in 1933, it was evident that the Indians living in the region were in desperate need of additional lands. Consequently, since 1935 the Zia and Jemez Pueblos have been granted grazing permits on the 75,651 acres included in this bill without charge by the Federal Government. The enactment of H. R. 5712, as amended, will give, at no expense to the Indians, security to the Zia and Jemez on land they are now and have been using for a number of years, and will protect the improvements constructed with their own funds and through their own efforts. It would not remove any lands from the taxrolls of the State of New Mexico, nor would it add any land to those which are now being used by the two pueblos. In the past the Indians

have followed a program of range conservation, and it is anticipated that such practices will continue in the future. It should be noted that some 38 non-Indian grazing permittees in New Mexico would be adversely affected by the enactment of this legislation. These ranchers strongly recommend that these 75,651 acres be transferred into a regular grazing district under the Taylor Grazing Act and administered by the Bureau of Land Management. They contend that under the Taylor Grazing Act Indians and non-Indians could both apply for grazing permits and be able to continue grazing on lands they are now using.

The reports from the Department of the Interior and the Bureau of the Budget, each dated May 11, 1956 and memorandum of information submitted by authorized representatives of the pueblos of Zia and Jemez are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 11, 1956.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 5712, a bill to provide that the United States hold in trust for the pueblos of Zia and Jemez a part of the Ojo del Espiritu Santo grant and a small area of public domain adjacent thereto.

We recommend that the bill be enacted.

The bill declares that title to certain lands in Sandoval County in the State of New Mexico, now owned by the United States, is held in trust for the pueblos of Zia and Jemez, subject to valid existing rights. Two classes of lands are involved: (1) Approximately 75,651 acres of the Ojo del Espiritu Santo grant, and (2) approximately 1,917 acres of public domain. Of this land, section 1 of the bill provides that approximately 41,216 acres are held in trust for the pueblo of Zia, and section 2 provides that approximately 36,352 acres are held in trust for the pueblo of Jemez.

The Ojo del Espiritu Santo grant was purchased by the United States of America in 1935 under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), as a part of the submarginal land acquisition project. By Executive Order No. 7792 dated January 18, 1938, this grant was transferred from the Secretary of Agriculture to the Secretary of the Interior for administration by the Commissioner of Indian Affairs for the benefit of the Indians in the area. Grazing permits were granted to the pueblo of Jemez for 200 cattle units yearlong, to the pueblo of Zia for 200 cattle units yearlong, and to the pueblo of Laguna for 400 cattle units yearlong.

The Antonio Sedillo grant was purchased by the United States under authority of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 522, 525). By Executive Order 8696, dated February 28, 1941, the grant was transferred from the Department of Agriculture to the Secretary of the Interior for the use of Pueblo Indians. Thereafter, the Laguna Pueblo grazing permit on the Ojo del Espiritu Santo grant was transferred to the Antonio Sedillo grant, and the area formerly used by the Indians of Laguna Pueblo on the Ojo del Espiritu

Santo grant was made available to non-Indian people who reside in the immediate locality.

By Executive Order 8697, dated February 28, 1941, and Executive Order 8912, dated September 27, 1941, the Ojo del Espiritu Santo grant was transferred from the Secretary of the Interior to the Secretary of Agriculture with the requirement that grazing facilities of the grant shall be made available to Pueblo Indians to the extent of 400 cattle units yearlong. Pursuant to this order, the pueblos of Zia and Jemez were granted permits to continue grazing livestock in the amount of 200 cattle units on a yearlong basis for each pueblo. The Ojo del Espiritu Santo grant is, at present, under the jurisdiction of the Secretary of Agriculture.

The present situation, therefore, is that (1) the entire Ojo del Espiritu Santo grant consists of approximately 113,141 acres, (2) the Zia and Jemez Indians have had grazing permits for a total of 400 livestock on a yearlong basis since the land was transferred to this Department in 1938, and (3) the Indians graze their livestock in common with the non-Indians who also have grazing permits for the area.

The average carrying capacity for the entire 113,141 acres during the 18-year period 1936-53 was 843 cattle yearlong. The high was 1,125 cattle yearlong in 1949 and low was 350 cattle yearlong in 1950. According to the best range information available, the 75,651 acres proposed to be conveyed to the Indians has an estimated average carrying capacity of no more than 400 cattle yearlong, which represents the grazing facilities assigned to the Indians for the past 18 years.

The approximately 1,917 acres of public domain land that are included in the bill are included in order to correct irregularities in the exterior boundaries and to simplify the administration of the land. It is at the top of Nacimiento Mountains, is extremely rough, and has little value. Merchantable timber on the land was recently sold.

The bill expressly excludes from the trust approximately 640 acres used by the United States as an administrative site and approximately 163.76 acres of privately owned land.

Approximately 200 mineral applications, mostly in connection with uranium, have been filed in this general area, but not necessarily in these lands.

In 1954 the Secretary of Agriculture advised us that he desired to dispose of the lands acquired under the submarginal land program by transferring to the appropriate Federal agency the tracts that should remain in Federal ownership, by selling to State agencies the tracts that should be administered by such agencies for a public purpose, by selling to private owners the tracts that are suitable for permanent private ownership, and by transferring to this Department the remainder of the land. The enactment of the pending bill to retain this particular land in Federal ownership in trust for the Indians is consistent with this general policy.

At the time these lands were acquired by the United States, it was evident that the Indians living in the region were in desperate need of additional lands. It was for this reason that since 1935 the two pueblos have been granted grazing permits on the lands included in this bill without charge by the United States. The enactment of this bill will give security to the pueblos of Zia and Jemez on land they are now and have been using for a number of years, and will protect the improvements constructed with their own funds and by their own

efforts. It would not remove any lands from the taxrolls of the State of New Mexico, nor would it add any lands to those which are now being used by the two pueblos. The Indians using the lands have followed a program of range conservation, and it is anticipated that such practices will continue in the future.

The bill contains three errors in description, as follows:

1. On page 2, line 17, the figure "16 chains" should be "5.25 chains".
2. On page 2, line 20, the figure "64 chains" should be "74.75 chains".
3. On page 4, line 4, the figure "34.33 chains" should be "44.13 chains".

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 11, 1956.

Hon. CLAIR ENGLE,

*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Bureau concerning H. R. 5712, to provide that the United States hold in trust for the pueblos of Zia and Jemez a part of the Ojo del Espiritu Santo grant and a small area of public domain adjacent thereto.

This bill concerns the transfer to the Indians of the Zia and Jemez Pueblos in New Mexico of some 77,500 acres of grazing lands now owned by the United States. The lands involved were acquired under the Bankhead-Jones Act as a part of the submarginal land-purchase program, and are presently administered by the Department of Agriculture. That Department is in process of disposing of these submarginal lands. The bill would permit transfer of areas which the Indians have been using under permit for grazing purposes.

It is noted from a copy of a report by the Department of the Interior on a companion bill, S. 1907, that there appear to be several minor errors in description, as follows:

Page 2, line 17, "16 chains" should be changed to "5.25 chains".

Page 2, line 20, "64 chains" should be changed to "74.75 chains".

Page 4, line 4, "34.33 chains" should be changed to "44.13 chains".

This Bureau would have no objection to enactment of the bill, subject to verification by the Department of the Interior of the description of the lands involved.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

PUEBLO OF ZIA, *San Ysidro, N. Mex.*

Congressman JOHN J. DEMPSEY,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN: You will recall that in September of this past year, a memorandum of information was mailed to you relating to legislation which has been introduced in the United States Congress, identified as S. 1907 and H. R. 5712, which would designate as "trust land" a portion of the Ojo del Espiritu Santo grant for the pueblos of Jemez and Zia.

We mailed this memorandum to a number of our friends and were very well pleased with their replies.

Now that Congress is again in session, we are very much interested in encouraging the passage of this legislation. We are taking the liberty of again submitting the memorandum of information containing the pertinent points, which was mailed to you last year, for your reference. We stand ready and willing at any time to supply information and would deem it a privilege to answer any questions that may help in clarifying our status.

We take this means of thanking those of you who replied to our letter of last fall and certainly will appreciate anything you can do on our behalf in bringing this matter to a satisfactory conclusion.

Sincerely yours,

GEORGE GACHUPIN,
Governor,

JUANITO MEDINA,
*Representative,
For the Pueblo of Zia.*

AUGUSTINE SANDO,
Lieutenant Governor,

PAT TOYA,
*Representative,
For the Pueblo of Jemez.*

Subject: Proposed legislation to set up a part of the Espiritu Santo grant in trust for the pueblos of Jemez and Zia.

The Espiritu Santo grant was purchased by the Government in 1935, and livestock of the pueblos of Laguna, Jemez, and Zia were admitted the latter part of the year, to graze on the grant. Laguna was allowed one-half of the carrying capacity of the grant, Jemez one-fourth, and Zia one-fourth. The estimated carrying capacity of the grant at that time was set at 805 cattle units or 4,000 sheep units on a yearlong basis.

The grant was used on this basis until 1941 when the Laguna livestock were moved out and put on the Antonio Sedillo grant, and that portion of the Espiritu Santo grant formerly used by Lagunas was made available to non-Indian people who live in the vicinity of the Espiritu grant. This amounted to 400 cattle units yearlong of carrying capacity being made available to non-Indians and 400 being left for the Jemez and Zia people, to be divided 200 cattle units to each pueblo.

Legislation has been introduced in Congress which would, if enacted, set up in trust a portion of the Espiritu Santo grant for Jemez Pueblo sufficient to graze 200 cattle units yearlong and a portion for Zia sufficient to graze 200 cattle units yearlong.

After the Espiritu Santo grant was purchased by the Government, it was first administered by the Department of the Interior, from 1935 to 1941. It then was transferred to the Department of Agriculture. It has been administered since that time by the Soil Conservation Service in the Department of Agriculture until January 1, 1954, when the grant was taken over by the Forest Service in the Department of Agriculture.

Records furnished by the Soil Conservation Service as to carrying capacity show that 843 cattle units yearlong is the average for the 18-year period 1935 through 1953.

At a meeting held at Zia Day School on July 24, 1955, officials of the Forest Service stated that preferential permits had been issued this year by the Forest Service for a total of 1,176 cattle units. This includes 400 for the Indians and 776 for the non-Indians. They furthermore stated that the grant at present is divided approximately 65 percent to the non-Indians and 35 percent for the Indians.

The area of the grant as divided in the proposed legislation sets up approximately 50 percent of the grant—on a carrying-capacity basis—for the Indians and 50 percent for the non-Indians. It is believed this is the equitable way for the Espiritu Santo grant to be divided.

Three meetings have been held with the non-Indian permittees (who object to the proposed legislation) in an effort to reach an agreement, but at this time it appears that the only conclusion the non-Indian permittees have come to is that they request that the legislation be withdrawn and the grant continue to be used on a communal basis by the Indians and non-Indians alike.

As you are no doubt familiar, living conditions in both Zia and Jemez Pueblos are very poor. This is due to insufficient farmlands and irrigation water. The total farmland in Zia is 346 acres. With a population of 324, this makes an average of about 1.24 acres per person. On Jemez Pueblo, there are approximately 1,300 acres of farmland. The population here is 1,095, and this leaves only about 1.45 acres per person.

The chief means of Zia and Jemez Pueblos sustaining a livelihood is by raising livestock. Therefore, this requires an increase of grazing land for our people. We, like all other people, want to better our living standards and for this reason both the Councils of Zia and Jemez Pueblos do hereby plead most earnestly with you to support the passage of Senate bill S. 1907. The bill, if enacted, will provide equitable grazing to all permittees on the Ojo del Espiritu Santo grant. Neither the Zia nor Jemez Indians desire to deprive anyone from their grazing privileges nor do we ask for larger or better grazing on the grant. We are only asking for the land that was assigned to us for our use.

JUANITO MEDINA,
For the Pueblo of Zia.

PAT TOYA,
For the Pueblo of Jemez.

The Committee on Interior and Insular Affairs recommends the enactment of H. R. 5712, as amended.

